

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PJ COTTER

Plaintiff,

v.

Case No. 16-13080

Hon. Sean F. Cox

Magistrate Judge Anthony P. Patti

U.S. BANK, N.A. as Trustee for
Greenpoint Mortgage Funding Trust
Mortgage Pass-Through Certificates,
Series 2006-AR4; OCWEN LOAN
SERVICING, LLC; and TROTT LAW,
P.C.

Defendants.

ORDER DENYING
PLAINTIFF'S MOTION TO VACATE THE COURT'S ORDER DENYING HIS
EMERGENCY FOR TRO AND PRELIMINARY INJUNCTION

Plaintiff P.J. Cotter ("Plaintiff") filed this *pro se* action in St. Claire County Circuit Court. Defendants U.S. Bank, N.A., Ocwen Loan Servicing, LLC, and Trott Law, P.C., ("Defendants") subsequently removed this action to the United States District Court for the Eastern District of Michigan based upon federal question jurisdiction. (Doc. #1). Plaintiff's complaint seeks to "halt the pending foreclosure and sheriff's sale" of Plaintiff's property. (Doc. 1-1, at Pg ID 10).

On October 7, 2016, Plaintiff filed an "Emergency Motion for Temporary Restraining Order and Preliminary Injunction." (Doc. # 9). Plaintiff asked the Court to "stay the [foreclosure] sale of his property until one or more of the Defendants can show the Mortgagee is a valid and rightful holder of his note under Michigan's Uniform Commercial Code..." (*Id.* at 2).

Plaintiff further represented that the foreclosure sale was scheduled to take place on October 13, 2016.

On October 12, 2016, this Court sent an email to Defendants' counsel, with Plaintiff cc'd, advising that Plaintiff had filed an emergency motion. Defendants filed a response indicating that the sale of Plaintiff's property had been adjourned and will continue to be adjourned throughout the pendency of the instant case. (Doc. # 12).

On October 13, 2016, the Court entered an Order denying Plaintiff's emergency motion. (Doc. # 15). The emergency motion was denied because Plaintiff's requested relief was moot in light of Defendants' representations and because Plaintiff had not demonstrated he was entitled to a temporary restraining order and preliminary injunction.

On October 17, 2016, Plaintiff filed an "Unopposed Motion to Withdraw His Emergency Motion for Temporary Restraining Order and Preliminary Injunction." (Doc. # 17). The Court entered a text-only order deeming Plaintiff's motion to withdraw as moot because the Court had already denied Plaintiff's emergency motion for temporary restraining order.

The matter is currently before the Court on Plaintiff's "Motion to (1) Vacate the Court's Order Denying his Emergency Motion For Temporary Restraining Order and Preliminary Injunction and (2) Grant His Motion to Withdraw the Emergency Motion." (Doc. # 19).

Plaintiff objects to the Court's October 13, 2016 Order denying the emergency motion because he claims that it was filed before Plaintiff was afforded an opportunity to file his motion to withdraw. Specifically, Plaintiff argues that the Court's October 13, 2016 Order "was premature under E.D. Mich. LR 7.1(e)(2)(C) and is moot since Mr. Cotter moved to withdraw his Emergency Motion within the same time period allowed for a reply." (Doc. # 19, at 3).

The Court shall **DENY** Plaintiff's motion to vacate. Plaintiff's reliance on E.D. Mich. LR 7.1 is misplaced. Local Rule 7.1(e)(2)(C) provides, in pertinent part, that "if filed, a reply brief supporting a nondispositive motion must be filed within 7 days after service of the response." Here, Plaintiff admittedly filed a separate *motion*, rather than a reply. As such, Local Rule 7.1(e) does not apply here and does not provide a basis for vacating this Court's October 13, 2016 Order.

Accordingly, **IT IS ORDERED** that Plaintiff's Motion to Vacate and to Grant Motion to Withdraw (Doc. # 19) is **DENIED**.

IT IS SO ORDERED.

Dated: January 17, 2017

S/ Sean F. Cox
Sean F. Cox
U. S. District Judge

I hereby certify that on January 17, 2017, the foregoing document was served on counsel of record via electronic means and upon PJ Cotter via First Class mail at the address below:

PJ Cotter
PO Box 131
Anchorville, MI 48004

S/ J. McCoy
Case Manager